

FILED
Judicial Support
04/10/2014

1 EDEN KRETCHET
2 11137 FREER ST
3 TEMPLE CITY CA 91780-3606
4 (626) 442-6650

5 Plaintiff in Pro Se
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2014 APR 10 PM 2:23
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES
BY *[Signature]*

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

EDEN KRETCHET) CASE NO. CV14-01953 DMG (RZx)
)
Plaintiff,) NOTICE OF MOTION AND MOTION
) FOR JUST COSTS AND ACTUAL
vs.) EXPENSES [28 U.S.C. § 1447(c)]
)
TRANS UNION LLC, et al.) DATE: May 16, 2014
) TIME: 9:30 AM
Defendants.) CTRM: 7 – 2nd Floor

Hon. Dolly M. Gee

TO DEFENDANT, EXPERIAN INFORMATION SOLUTIONS, INC. AND
TO ITS ATTORNEY OF RECORD, KATHERINE A. KLIMKOWSKI AND ALL
OTHER INTERESTED PARTIES:

PLEASE TAKE NOTICE that the Plaintiff, EDEN KRETCHET, has filed a
Motion for Just Costs and Actual Expenses pursuant to the provisions of 28 U.S.C. §
1447(c) and that said motion is set for hearing May 16, 2014 at 9:30 AM in Court Room
7 – 2nd Floor of the above entitled court located at 312 North Spring Street, Los Angeles

California 90012.

NOTICE OF MOTION AND MOTION FOR JUST COSTS AND ACTUAL EXPENSES
[28 U.S.C. § 1447(c)]

Said motion is made on the ground that an order remanding the case *may* require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal *if the case is remanded* and the court determines that *the removal was inappropriate..* The motion will be based upon this notice of motion, the memorandum of points and authorities, and the papers in this action on file herein in both the state and federal court files.

Dated: April 9, 2014



EDEN KRETCHET
Plaintiff in Pro Se

NOTICE OF MOTION AND MOTION FOR JUST COSTS AND ACTUAL EXPENSES
[28 U.S.C. § 1447(c)]

DECLARATION OF EDEN KRETCHET

I, EDEN KRETCHET, declare as follows:

1 am the Plaintiff herein in pro se. The facts contained in this declaration are within my own personal knowledge and if called upon, could and would testify competently thereof. I make this declaration in support of my Motion for Just Costs and Actual Expenses pursuant to 28 U.S.C. § 1447(c).

In order to file my Motion to Remand submitted and filed concurrently with this motion for costs, I was required to retain the services of :

LOUISA MORITZ SBN 232509
Attorney at Law
5812 TEMPLE CITY BLVD
STE 402
TEMPLE CITY CA 91780-2141
(310) 728-0322

The attorney fees payable to LOUISA MORITZ that I have incurred for these two referenced motions thus far is \$ 800.00. However, she advised me that any additional required reply against any opposition to these motions would increase my attorney costs by no less than another \$ 200. Accordingly, I am requesting a court order for just costs and actual expenses including attorney fees as follows: \$ 800 for current attorney fees incurred, \$ 200 for any additional reply required in opposition to these motions, and court costs herein. I requests that these costs be ordered against the law firm of JONES DAY.

I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct. Executed on April 9, 2014 at Temple City CA.

11

EDEN KRETCHET
Plaintiff in pro se

DECLARATION OF EDEN KRETCHET

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I**

3 **JUST COSTS AND ACTUAL EXPENSES**

4 On granting a motion for remand, the court *may* order the Defendant to pay
5 Plaintiff his "just costs and any actual expenses, including attorney fees, incurred as a
6 result of the removal." 28 U.S.C. § 1447(c). The award is totally discretionary and
7 the key factor is the propriety of the removal in the first instance.

8 In the matter at bar, one would assume that a well-established law firm such as
9 DAY JONES knows or should know that a state filed complaint seeking relief only under
10 state law does not give rise to federal jurisdiction. Whether the removal procedure
11 initiated by JONES DAY was because of an innocent oversight or was a disingenuous tactic
12 designed to take unfair advantage of a vulnerable pro se plaintiff, is uncertain.

13 **II**

14 **BAD FAITH NOT REQUIRED**

15 In a motion for costs and attorney fees pursuant to § 1447(c) it is not necessary to show
16 that the Defendant acted in bad faith in its removal action but rather only that it was
17 inappropriate. Martin v. Franklin Capital Corp. (2005) 546 US 132, 136, 126 S.Ct. 704, 708-709.
18 In the matter at bar, allowing that Defendant's action was done through mistake and oversight and
19 not otherwise, payment only for the modest costs thus far incurred is reasonable and fair.

20 For the foregoing reasons, Plaintiff prays that the Court order that the law firm of
21 DAY JONES be ordered to pay to Plaintiff the herein requested costs.

22 Respectfully submitted,

23 

24

25 EDEN KRETCHET
26 Plaintiff in Pro Se
27

28

MEMORANDUM OF POINTS AND AUTHORITIES

1 **PROOF OF SERVICE BY MAIL**

2 I am over the age of eighteen years and not a party to the within action. My
3 home address is 11137 FREER ST, TEMPLE CITY CA 91780-3606 telephone
4 number: (626) 442-6650.

5 On April 10, 2014, I served the following described documents:

6 **NOTICE OF MOTION FOR JUST COSTS AND ACTUAL EXPENSES [28 U.S.C. § 1447(c)]**
7 on all interested parties in this action by causing a true copy thereof, enclosed in a
8 sealed envelope with postage thereon fully prepaid and placed in the United States
9 mail at Temple City, CA 91780-3606 addressed as follows:
10

11 **SEE ATTACHED SERVICE LIST**

12 I declare under penalty of perjury under the laws of the United States of
13 America that the foregoing is true and correct. Executed on April 10, 2014 at Temple
14 City CA 91780-3606.
15

16 
17 JOSEPH KRETCHET
18
19
20
21
22
23
24
25
26

1 SERVICE LIST

2 **KATHERINE A. KLIMKOWSKI , ESQUIRE**
3 **Jones Day**
4 **3161 Michelson Drive**
5 **STE 800**
6 **IRVINE CA 92612-4408**
7 **Attorneys for**
8 **EXPERIAN INFORMATION SOLUTIONS, INC.**

9
10 **JUDITH T. SETHNA ESQUIRE**
11 **Reed Smith LLP**
12 **355 South Grand Avenue**
13 **Suite 2900**
14 **Los Angeles CA 90071-1514**
15 **Attorneys for**
16 **FIA CARD SERVICES N.A.**

17
18 **HUNTER R. ELEY, ESQUIRE**
19 **Doll Amir & Eley**
20 **1888 CENTURY PARK EAST**
21 **STE 1850**
22 **LOS ANGELES CA 90067**
23 **Attorney for**
24 **CAPITAL ONE BANK (USA), N.A.**